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February 3, 2006

**HAND DELIVERY**

**RECEIVED**

FEB 03 2006

PUBLIC SERVICE  
COMMISSION

Elizabeth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

**RE: In the Matter of the Application of Louisville Gas and Electric Company and  
Kentucky Utilities Company for Authority to Transfer Functional Control of  
Their Transmission System**  
**Case No. 2005-00471**

Dear Ms. O'Donnell:

Enclosed please find and accept for filing two originals and ten copies each of Louisville Gas and Electric Company's and Kentucky Utilities Company's Joint Motion for Leave to File an Amended Application and Amended Joint Application in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

  
Kendrick R. Riggs

KRR/ec

Enclosures

cc: All Parties of Record  
Kent W. Blake (w/encl)  
Elizabeth L. Cocanougher (w/encl)

345301.1

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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FEB 03 2006

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND )  
ELECTRIC COMPANY AND KENTUCKY )  
UTILITIES COMPANY FOR AUTHORITY ) CASE NO. 2005-00471  
TO TRANSFER FUNCTIONAL CONTROL )  
OF THEIR TRANSMISSION SYSTEM )

**JOINT MOTION FOR LEAVE TO FILE AN AMENDED APPLICATION**

Pursuant to 807 KAR 5:001, Section 3(5), Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU," collectively, the "Companies") hereby move the Kentucky Public Service Commission ("Commission") to issue an order granting leave to amend their Joint Application to include copies of the final agreements reached with the Tennessee Valley Authority ("TVA"), Southwest Power Pool ("SPP"), and the Midwest Independent Transmission System Operator, Inc. ("MISO"). As grounds for their Joint Motion, the Companies state as follows:

On November 18, 2005, the Companies filed their Joint Application with the Commission for authority to withdraw from membership in MISO. More particularly, the Companies respectfully requested that the Commission:

1. Issue an order, pursuant to KRS 278.218, approving the transfer of the functional control of their facilities from the Midwest Independent Transmission System Operator, Inc. to the Companies, for the purpose of affecting the withdrawal of their membership from the Midwest Transmission System Operator, Inc., and to Tennessee Valley Authority ("TVA") to the extent necessary for TVA to act as the Companies' reliability coordinator and to the Southwest Power Pool ("SPP")

to the extent necessary for SPP to perform its function as the Companies' Independent Transmission Organization;

2. Allow the Companies to establish a regulatory asset in the amount of the MISO exit fee;
3. Deem the MISO exit fee prudently incurred because incurring it will result in recurring savings and ultimately lower base rates; and
4. Issue the requested order by March 31, 2006.

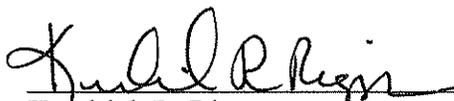
When the Companies filed their Joint Application they were still negotiating a withdrawal agreement with MISO ("Withdrawal Agreement"), as well as contracts with TVA, which will serve as the Companies' reliability coordinator ("Reliability Coordinator"), and SPP, which will serve as the Companies' independent transmission organization ("ITO"). Because negotiations were ongoing at the time the Companies filed their Joint Application, they filed pro forma versions of the Reliability Coordinator and ITO agreements as part of the Joint Application. In the time since the Companies filed their Joint Application, they have completed their negotiations with SPP and TVA and have developed final ITO and Reliability Coordinator agreements, respectively, which the Companies believe are important for the Commission to consider in this proceeding. Also important for the Commission to consider is the Withdrawal Agreement between the Companies and MISO, which sets out in detail the obligations of each party in accommodating the Companies' withdrawal.

The Companies therefore move the Commission for leave to amend their Joint Application to include discussion and copies of these final agreements.

**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission enter an order granting the Companies leave to amend their Joint Application as set forth herein. The Amended Joint Application is tendered with this motion.

Dated: February 3, 2006

Respectfully submitted,



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Telephone: (502) 627-4850

Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that an original and ten copies of this joint motion was hand delivered on the 3rd day of February 2006 to Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and that a copy of this motion was mailed to:

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Counsel for Louisville Gas and  
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Kentucky Utilities Company

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

APPLICATION OF LOUISVILLE GAS AND )  
ELECTRIC COMPANY AND KENTUCKY )  
UTILITIES COMPANY FOR AUTHORITY ) CASE NO. 2005-00471  
TO TRANSFER FUNCTIONAL CONTROL )  
OF THEIR TRANSMISSION SYSTEM )

AMENDED JOINT APPLICATION

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) respectfully petition by application the Kentucky Public Service Commission (“Commission”) pursuant to KRS 278.218 for an order authorizing the transfer of the functional control of their facilities from the Midwest Independent Transmission System Operator, Inc. (“MISO”)<sup>1</sup> to the Companies, for the purpose of withdrawing from membership in MISO, and to Tennessee Valley Authority (“TVA”) to the extent necessary for TVA to act as the Companies’ Reliability Coordinator and to the Southwest Power Pool (“SPP”) to the extent necessary for SPP to perform its function as the Companies’ Independent Transmission Organization (“ITO”).

In support of this Application, the Companies state as follows:

Applicants

1. The full name and mailing address of LG&E is: Louisville Gas and Electric Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40232. The full name and mailing address of KU is: Kentucky Utilities Company c/o Louisville Gas and Electric Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40232.

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<sup>1</sup> MISO currently has functional control under the TEMT only over the Companies’ transmission facilities exceeding 100kv.

Both LG&E and KU are Kentucky corporations authorized to do business in the Commonwealth of Kentucky.

2. LG&E is a utility engaged in the electric and gas business. LG&E generates and purchases electricity, and distributes and sells electricity at retail in Jefferson County and portions of Bullitt, Hardin, Henry, Meade, Oldham, Shelby, Spencer and Trimble Counties. LG&E also purchases, stores and transports natural gas and distributes and sells natural gas at retail in Jefferson County and portions of Barren, Bullitt, Green, Hardin, Hart, Henry, Larue, Marion, Meade, Metcalfe, Nelson, Oldham, Shelby, Spencer, Trimble and Washington Counties.

3. KU is a utility engaged in the electric business. KU generates and purchases electricity, and distributes and sells electricity at retail in the following counties in Central, Northern, Southeastern and Western Kentucky:

- |            |           |            |            |
|------------|-----------|------------|------------|
| Adair      | Edmonson  | Jessamine  | Ohio       |
| Anderson   | Estill    | Knox       | Oldham     |
| Ballard    | Fayette   | Larue      | Owen       |
| Barren     | Fleming   | Laurel     | Pendleton  |
| Bath       | Franklin  | Lee        | Pulaski    |
| Bell       | Fulton    | Lincoln    | Robertson  |
| Bourbon    | Gallatin  | Livingston | Rockcastle |
| Boyle      | Gerrard   | Lyon       | Rowan      |
| Bracken    | Grant     | Madison    | Russell    |
| Bullitt    | Grayson   | Marion     | Scott      |
| Caldwell   | Green     | Mason      | Shelby     |
| Campbell   | Hardin    | McCracken  | Spencer    |
| Carlisle   | Harlan    | McCreary   | Taylor     |
| Carroll    | Harrison  | McLean     | Trimble    |
| Casey      | Hart      | Mercer     | Union      |
| Christian  | Henderson | Montgomery | Washington |
| Clark      | Henry     | Muhlenberg | Webster    |
| Clay       | Hickman   | Nelson     | Whitley    |
| Crittenden | Hopkins   | Nicholas   | Woodford   |
| Daviess    |           |            |            |

4. Certified copies of the Companies' Articles of Incorporation are already on file with the Commission in this case and are incorporated herein by reference pursuant to 807 KAR 5:001, Section 8(3).

5. MISO was created on February 12, 1996 when several transmission owners convened to create an organization charged with the centralized control of the transmission facilities of numerous electric transmission owners in the Midwest. In December 2001, FERC granted MISO Regional Transmission Organization ("RTO") status.<sup>2</sup> MISO began providing transmission service under its Open Access Transmission Tariff ("OATT") on February 1, 2002 and, on April 1, 2005 began operating its Real-Time and Day-Ahead energy markets pursuant to its FERC-approved Open Access Transmission and Energy Markets Tariff ("TEMT").

6. The Southwest Power Pool was created in 1941 when eleven companies joined together to serve national defense needs during World War II. Currently, SPP is a FERC-approved RTO committed to maintaining the reliability of the bulk electric power system.<sup>3</sup> SPP has forty-five members and serves more than 4 million customers. SPP provides independent reliability coordination and tariff administration, regional engineering model development, planning and operating studies, reliability assessment studies, regional transaction scheduling and operating reserve sharing services to its members. SPP has also served as the reliability coordinator and independent tariff administrator for American Electric Power East, which includes Kentucky Power Co.<sup>4</sup>

7. The Tennessee Valley Authority is the nation's largest public power company. It supplies the electricity needs of 8.6 million people in an area spanning portions of seven states by providing wholesale power to 158 municipal and cooperative power distributors, and by

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<sup>2</sup> Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 (2001).

<sup>3</sup> Southwest Power Pool, Inc., 109 FERC ¶ 61,010 (2004), order on reh'g, 110 FERC ¶ 61,137 (2005).

<sup>4</sup> American Electric Power Company, Central and South West Corporation, 91 F.E.R.C. ¶ 61,208 (2001).

directly serving 62 large industries and government installations in the Tennessee Valley. TVA also provides transmission service on a nondiscriminatory, as available basis to other power providers requiring power transfers out of or through the TVA system. TVA, as a North American Electric Reliability Council (“NERC”) certified Reliability Coordinator, monitors and ensures the reliable operation of the bulk transmission system in ten states including Tennessee, and portions of Alabama, Georgia, Illinois, Iowa, Kentucky, Mississippi, Missouri, North Carolina and Virginia. TVA currently serves as reliability coordinator for the East Kentucky Power Cooperative, Inc., serving 16 electric cooperatives and 500,000 customers, and Big Rivers Electric Corporation, serving 3 electric cooperatives and 107,000 customers.

8. Copies of all orders, pleadings and other communications related to this proceeding should be directed to:

Elizabeth L. Cocanougher  
Senior Corporate Attorney  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202

Kent W. Blake  
Director of State Regulation and Rates  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202

Kendrick R. Riggs  
William Duncan Crosby III  
Sarah K. M. Adams  
Stoll Keenon Ogden PLLC  
1700 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202

**The Transmission System**

9. The Companies’ respective transmission systems were built, owned and operated for the purposes of transferring power from their own generators to serve their native load. Over

time, the transmission systems became increasingly interconnected with others in the state in an effort to enhance system reliability, engage in off-system sales transactions and reduce facility redundancy. Upon their merger in 1998, the Companies' transmission systems were combined. Currently, the Companies' combined transmission and distribution network covers 27,000 square miles.

10. The Companies were among the earliest participants in MISO, joining in 1998. However, they did not transfer functional control of their transmission assets to MISO until February 2002. MISO was originally designed as an Order No. 888 compliant ISO whose functions were to operate the region's transmission facilities under a single OATT and to allow open access to the regional grid without customers having to pay multiple transmission rates. These functions are commonly referred to as MISO's "Day 1" operations. MISO began selling regional transmission service under its FERC-approved tariff on February 1, 2002. Subsequently, MISO developed its "Day 2" market design which included the administration of regional energy markets. MISO filed its Open Access Transmission and Energy Markets Tariff on March 31, 2004,<sup>5</sup> which tariff FERC approved on August 6, 2004.<sup>6</sup>

11. On July 17, 2003, the Commission, by order, initiated an investigation of the Companies' membership in MISO.<sup>7</sup> In the order, the Commission indicated its willingness to explore the feasibility of the Companies' leaving MISO and joining a different RTO. In light of the evidence presented during the investigation, the Companies advised the Commission that they would seek to withdraw from MISO and pursue an alternative model that satisfies FERC's

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<sup>5</sup> *Midwest Independent Transmission System Operator, Inc., Open Access Transmission and Energy Markets Tariff*, Docket No. ER04-691-000.

<sup>6</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 (2004).

<sup>7</sup> *In the Matter of: Investigation into the Membership of the Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator, Inc.*, Case No. 2003-266, Order issued July 17, 2003.

non-discriminatory, open access transmission service objectives and other relevant policy goals. When MISO filed its TEMT and Day 2 Market proposals with FERC, the Commission reopened its investigation because of concerns about the impact of Day 2 operations on the Companies and Kentucky ratepayers. This investigation is currently under submission before the Commission for decision.<sup>8</sup>

12. On October 7, 2005, in *LG&E Energy LLC, Louisville Gas & Electric Company et al*, Docket Nos. EC06-4-000 & EC06-20-000, the Companies petitioned FERC for an order authorizing the transfer of the functional control of their facilities from MISO back to themselves and authorizing the Companies to enter into agreements with SPP to serve as the Companies' OATT administrator and with TVA to serve as the Companies' NERC-certified reliability coordinator. The ITO and reliability coordinator proposal ensures that the Companies will maintain the requisite level of independence in the operation of their transmission system while maintaining a high level of system reliability. FERC approval of this transaction is required because such withdrawal constitutes a change in rates under the Federal Power Act ("FPA") Section 205.<sup>9</sup>

On January 10, 2006, the Companies filed with FERC revised Attachment M of their Open Access Transmission Tariff containing a final and executed ITO Agreement and a final Reliability Coordinator Agreement, as well as a final Withdrawal Agreement between Applicants and MISO, which sets out the obligations of each party in accommodating the Companies' withdrawal, including a Withdrawal Fee Methodology. A complete electronic copy of the SPP,

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<sup>8</sup> In the Matter of: *Investigation into the Membership of the Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator, Inc.*, Case No. 2003-266, Order Issued June 22, 2004.

<sup>9</sup> Although certain parties, including Big Rivers Electric Corp. ("BREC") and East Kentucky Power Cooperative, Inc. ("EKPC"), initially intervened without supporting (indeed, BREC protested) the Companies' application at FERC, now stakeholders in Kentucky, Tennessee, Indiana and Illinois -- including BREC and EKPC -- which are directly affected by the Companies' proposal have withdrawn their protests. These stakeholders either do not oppose, or support, the Companies' decision to withdraw from MISO.

TVA, and MISO final agreements on compact disc accompanies this Application as Amended Application Exhibit 1.

**The Proposed Transfer is Governed by KRS 278.218**

13. Pursuant to KRS 278.218(1), Commission approval is required for the “transfer of ownership of or control, or the right to control,” certain utility assets. Further, KRS 278.218(2) provides that approval is to be granted, “if the transaction is for a proper purpose and is consistent with the public interest.”

14. Under the Companies’ proposal, they would transfer functional control of their facilities from MISO back to themselves, to TVA for reliability coordination purposes, and to SPP for the purposes of SPP’s acting as the Companies’ ITO. Because this proposal requires transfer of functional control of the Companies’ transmission assets from MISO, the Companies must seek Commission approval under KRS 278.218.

15. In *In the Matter of: Application of Kentucky Power Company D/B/A American Electric Power for Approval, to the extent necessary, to Transfer Functional Control of Transmission Facilities Located in Kentucky to PJM InterConnection L.L.C.* Pursuant to KRS 278.218, Case No. 2002-00475, Order issued July 17, 2003, the Kentucky Power Company sought Commission approval to transfer control of certain transmission facilities to PJM Interconnection L.L.C. In finding that the proposed transfer fell within the purview of KRS 278.218, the Commission clarified that the statute’s “public interest” standard requires a showing that the transfer produces some benefits for the public and does not adversely affect service or rates.<sup>10</sup>

16. The information submitted in connection with this application will show that the Companies’ proposal to transfer functional control will not result in adverse effects on service or

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<sup>10</sup> *Id.*

rates and will, in fact, provide potential benefits. It is estimated that the Companies' proposal to exit MISO and enter into agreements with an ITO and a reliability coordinator will save \$10 to \$12 million per year. These savings result from estimated costs of continued MISO membership of \$15-\$17 million per year, whereas the actual cost of the ITO/reliability coordinator should be less than \$5 million per year:

- As set out in the final ITO agreement filed herewith in Application Exhibit 2, the Companies will pay the ITO \$3,340,000 before the start of each contract year during the initial four year term. If, at any time during the initial term SPP begins providing similar services to another entity, the compensation rate is automatically reduced to \$2,840,000 per year.
- As set out in the final reliability coordinator agreement filed herewith in Application Exhibit 2, the Companies will pay TVA \$1,397,000 for the first contract year; \$1,439,000 for the second; \$1,511,000 for the third year; and \$1,586,000 for the fourth and final year of the initial term.

Thus, the savings from the proposal will exceed the estimated \$41 million MISO exit fee in approximately four years. Further, the proposal will ensure that Kentucky retail electricity customers continue to receive reliable service at the lowest reasonable cost. Therefore, the transfer of operational control of the Companies' transmission assets should be approved by the Commission pursuant to KRS 278.218.

#### **Testimony in Support of the Application**

17. LG&E and KU support their request for authority to transfer functional control of their transmission systems from MISO with the following testimony:

- The testimony of Paul W. Thompson, Senior Vice President, Energy Services, LG&E Energy Services, Inc., will provide a brief overview of the application and the evidence supporting it. His testimony will also demonstrate the Companies' business reasons for becoming charter members of MISO and why they now seek to exit it.
- The testimony of Mark S. Johnson, Director of Transmission, LG&E Energy Services, Inc., describes the functions of the ITO and Reliability Coordinator and the Request For Proposal processes that led to the selection of SPP and TVA to serve in those roles.
- The testimony of Dr. Mathew J. Morey, Sr. Consultant, Laurits R. Christenson Associates, Inc., explains why the Companies' ITO and Reliability Coordinator proposal is economically superior to, and therefore more prudent than, the Companies continuing MISO membership.
- The testimony of Kent W. Blake, Director of State Regulation and Rates, LG&E Energy Service, Inc., will explain why the Companies' ITO and Reliability Coordinator proposal satisfies the requirements of 278.218.
- The testimony of Susan F. Tierney, Ph.D., Managing Principal, Analysis Group, Inc., explains why the Companies' ITO and reliability coordinator proposal meets the "proper purpose" and "public interest" standards set out in KRS 278.218 as governing transfers of functional control of utility assets.
- The testimony of Michael S. Beer, Vice President, Federal Regulation and Policy, LG&E Energy Services, Inc., explains how the Companies' application today fits in the context of the current Commission proceeding investigating the

Companies' ongoing membership in MISO and the Companies' currently pending application before FERC for approval of the same transaction that is the subject matter of this application.

18. LG&E and KU also support their application with the following testimony submitted by the Tennessee Valley Authority and the Southwest Power Pool, as the prospective third-party vendors of reliability coordination and independent transmission operation, respectively, regarding their qualifications and interests:

- The testimony of Stuart L. Goza, Reliability Coordinator for TVA, provides background regarding how TVA acts as reliability coordinator for other electric systems and how TVA proposes to provide such service to the Companies.
- The testimony of Bruce A. Rew, Executive Director of Contract Services, Southwest Power Pool, will provide information on the capabilities of SPP to perform the functions of an ITO for the Companies.

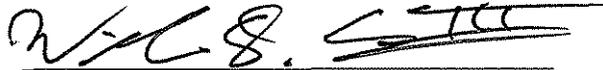
**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission:

1. Issue an order, pursuant to KRS 278.218, approving the transfer of the functional control of their facilities from the Midwest Independent Transmission System Operator, Inc. to the Companies, for the purpose of affecting the withdrawal of their membership from the Midwest Transmission System Operator, Inc., and to Tennessee Valley Authority ("TVA") to the extent necessary for TVA to act as the Companies' reliability coordinator and to the Southwest Power Pool ("SPP") to the extent necessary for SPP to perform its function as the Companies' Independent Transmission Organization;

2. Allow the Companies to establish a regulatory asset in the amount of the MISO exit fee;
3. Deem the MISO exit fee prudently incurred because incurring it will result in recurring savings and ultimately lower base rates; and
4. Issue the requested order by March 31, 2006.

Dated: February 3, 2006

Respectfully submitted,



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Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that an original and ten copies of this amended application was hand delivered on the 3rd day of February 2006 to Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and that a copy of this motion was mailed to:

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Counsel for Louisville Gas and  
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*Case # 2005-00471*

*Amended Application Exhibit 1*

*Feb. 3, 2006*

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